

"YELLOW"

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Date Apr 12, 1997

Surname

[REDACTED]

[REDACTED]

MAR 27 1997

Employer Identification Number:
Key District:

[REDACTED]

Dear Applicant:

We have considered your application for recognition of exemption from federal income tax as an organization described in section 501(c)(3) of the Internal Revenue Code. For the reasons stated below, we conclude that you do not qualify for tax exemption under this section. Your protest rights are also explained below.

You were incorporated on February 29, 1996, on a nonprofit basis under the laws of the [REDACTED] Article THIRD of your incorporating instrument states that your specific purposes are, "To provide educational and networking opportunities in aging for businesses and individuals in the metropolitan [REDACTED] region." In response to Part II, 1 of Form 1023, exemption application, you state that you organize and conduct conferences, seminars, and other activities to educate persons and businesses about better ways to serve the senior market. These activities focus on issues and concerns of older persons in the metropolitan [REDACTED] area. You seek to reach and assist seniors and plan to conduct and/or sponsor research projects and publish the results thereof.

A small admission charge is ordinarily required for the sponsored events in order to cover the costs of any materials, refreshments, use of a facility, publicity, printing, and mailing. Discounts are available for nonprofit organizations or other entities which cannot afford the regular admission fee.

In a submission dated February 23, 1997, responsive to our development letter, Attachment A contains information relating to your conference of September 16, 1996, entitled [REDACTED]. The 24 page, magazine-style survey of the same name states on the inside cover that you present "seminars and workshops designed to promote

	Initiator	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer
Code	[REDACTED]	[REDACTED]				
Surname	[REDACTED]	[REDACTED]				
Date Signature	3/27/97	3/27/97				

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awareness among businesses of the value of providing and marketing products and services to older consumers. The survey was conducted by the [REDACTED]

The Introduction to the survey contains the following comments:

Not only is the U.S. population graying, it is living longer. Today's average 50-year-old can expect to enjoy another 29 years of life. And those later years will be marked by more fiscal, as well as physical, well-being than those of any past generation.

While some businesses still appear to believe that only the 18 to 34 group is worth their attention and advertising dollars, many are coming to realize that older consumers ultimately represent a larger and wealthier force.

One section of the survey is entitled, [REDACTED] and the subtitles are "Travel, Dining Out", "Vehicles, Home Improvement", "Clothes, Hobbies and Entertainment", "Health Aids, Personal Care Products", and "Shopping from Home."

Another section of the survey contains demographic and financial data, including age of respondents, gender, marital status, race, occupation, employment status (working or retired), education, household income, net worth, retirement income, and investments.

You listed the names and employer of the 39 individuals who attended the September 16th conference. While a few were from government agencies and nonprofit organizations, the great majority represented for profit business concerns, including corporations which provide health care and housing for seniors, financial services organizations, and magazines and other organizations which cater to the leisure and recreational needs of seniors.

Your Conference Financial Report shows receipts of \$2,798.58 and expenditures of \$5,640.09 (including \$4,500 to a company which analyzed the data found in the above survey). Thus, the September 16th conference resulted in a net loss of \$2,841.51.

Attachment B contains materials related to an October 22, 1996 "networking reception." You describe this event as a "social function, allowing participants to network with colleagues in the aging industry." You have furnished the names

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[REDACTED]

and employers of the 61 individuals who attended this event. Compared to the September 16th conference, this time there appeared to be more individuals from organizations directly involved with housing and health care for seniors. Because the room and refreshments were donated by the owners of the apartment building, and printing and mailing costs were paid by the [REDACTED], your expenditures were only \$35.50 and you derived a net profit of \$932.50.

Attachment C contains information relating to a December 12th networking reception. You state that, as with the previous event, "this was purely a social event." Twenty-six individuals were in attendance. You had no expenditures because the event was held at a group home and the [REDACTED] again picked up the printing and mailing costs of the flyer. You had income of \$158 from this reception.

You advise us that you are planning two additional events: another networking social event, scheduled for the week of April 14, 1997, and another conference, tentatively titled, [REDACTED] " [REDACTED] The conference is scheduled for May 16, 1997.

The financial information which you provide for your first taxable year ending December 31, 1996 shows total revenue of \$10,212.27, including \$4,769 from the [REDACTED] for purposes of analyzing the data obtained by the [REDACTED] and an earlier transfer of \$1,361.69 from [REDACTED] to provide you with operating funds. Expenditures totalled \$7,853.34, including \$4,500 for an analysis of the data from the survey, and \$1,750 for consultant services. Accordingly, as of December 31, 1996, you report "cash on hand" of \$2,358.93.

Section 501(c)(3) of the Code provides for the exemption from federal income tax of organizations organized and operated "exclusively" for religious, charitable, educational, scientific, or other specified exempt purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Section 1.501(c)(3)-1(a)(1) of the Income Tax Regulations provides that in order to qualify for exemption under Code section 501(c)(3), an organization must be both organized and operated exclusively for one or more exempt purposes. Failure to meet either the organizational or operational test will disqualify an organization from exemption under section 501(c)(3).

Section 1.501(c)(3)-1(d)(1)(ii) of the regulations provides that an organization is not organized or operated exclusively for a section 501(c)(3) exempt purpose unless it serves a public

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rather than a private interest. Thus, it is necessary that the organization establish that it is not operated for the benefit of private individuals or interests.

In general, an organization which applies for recognition of exemption has the burden of proving that it clearly meets all the requirements of the particular Code section under which it has applied. See Kenner v. Commissioner, 318 F. 2d (7th Cir. 1963), and Cleveland Chiropractic College v. Commissioner, 312 F. 2d 203, 206 (8th Cir. 1963).

Section 1.501(c)(3)-1(c)(1) of the regulations provides that an organization will be regarded as "operated exclusively" for one or more exempt purposes only if it engages primarily in activities which accomplish such purposes. An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose. Thus, in construing the meaning of the phrase "exclusively for educational purposes" in Better Business Bureau v. United States, 236 U.S. 279 (1945), 1945 C.B. 375, the Supreme Court of the United States stated, "This plainly means that the presence of a single noneducational purpose, if substantial in nature, will destroy the exemption regardless of the number or importance of truly educational purposes."

The evidence in the administrative file indicates that your primary purpose is to provide demographic and economic data concerning seniors, i.e., those 50 years or older, in the [REDACTED] to businesses which provide various services and products to this group. These for profit entities include those involved, inter alia, with health care, housing, financial services, insurance, food, travel and entertainment. You seek to make these diverse businesses aware of the affluence of the senior citizens in the [REDACTED] and the corresponding economic opportunities for those enterprises which cater to their needs. This is clearly serving a private commercial interest, as opposed to a public interest, in contravention of section 1.501(c)(3)-1(d)(1)(ii) of the regulations.

While the demographic and economic data contained in the published survey made available for your conference of September 16, 1996 is of definite educational value, nevertheless you are promoting a substantial nonexempt purpose in that your conferences, seminars, workshops, etc. are "designed to promote awareness among businesses of the value of providing and marketing products and services to [REDACTED]." This is not a charitable or educational purpose within the meaning of Code section 501(c)(3). As noted above, an organization will not qualify for tax exemption under section 501(c)(3) if more than an insubstantial part of its activities is not in furtherance of an

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exempt purpose. See section 1.501(c)(3)-1(c)(1) of the regulations and the Supreme Court decision in Better Business Bureau, cited supra.

Aside from the commercial purpose discussed above, we also note another substantial nonexempt purpose in your "networking" receptions, which appear to be held on a fairly regular basis. You have described the two networking receptions held to date as "purely" social in nature. Such type activity is not in furtherance of any exempt purpose under section 501(c)(3) of the Code.

We have concluded that you are not operated in furtherance of section 501(c)(3) purposes. Accordingly, we hold that you are not exempt from federal income tax under section 501(c)(3) of the Code. Therefore, contributions to you are not deductible under section 170 of the Code. You are required to file federal income tax returns on Form 1120.

You have the right to protest this ruling if you believe it is incorrect. To protest, you should submit a statement of your views, with a full explanation of your reasoning. This statement, signed by one of your officers, must be submitted within 30 days from the date of this letter. You also have a right to a conference in this office after your statement is submitted. You must request the conference, if you want one, when you file your protest statement. If you are to be represented by someone who is not one of your officers, that person will need to file a proper power of attorney and otherwise qualify under our Conference and Practice Procedures.

If you do not protest this proposed ruling in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Code provides, in part, that a declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the U.S. Court of Federal Claims, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service.

If we do not hear from you within 30 days, this ruling will become final and copies will be forwarded to your key District Director, [REDACTED], which is your key district for exempt organization matters. Thereafter, if you have any questions about your federal income tax status, including questions concerning reporting requirements, please contact your key District Director. The appropriate State Officials will be notified of this action in accordance with section 6104(c) of the Code.

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When sending a protest or other correspondence with respect to this case, you will expedite its receipt by using the following address on the envelope:

Internal Revenue Service

Attn: [REDACTED]

Washington, DC 20224

Sincerely,

[REDACTED]